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*Law and Politics in the Middle Ages.* By EDWARD JENKS. New York: Henry Holt & Company. 1898. 8vo. pp. xiii-352.

THE field which Mr. Jenks attempts to cover is one which requires broad generalization and a certain amount of conjecture, to give a basis for classification of data and to fill in the gaps where established facts are wanting. In so far as he goes into the theory of the origin of the political institutions of western Europe he is of the Germanist school of thought. He gives little weight to claims of the Romanist. His method is largely that of the evolutionist, tracing the relations of political forms and survivals, linking the past with the present. His investigations lead him to the conclusion that the mediæval law was a product of the social and economic relations of men living together in the family, the clan, the village community, or other social groups; the laws, such as the *Leges Barbarorum*, the Anglo-Saxon *Dooms*, etc, which are used by him as "sources" are regarded as rules of action, or of social control established in the community by men dealing with each other in these several relations; those rules were discovered and announced by the judge instead of being formulated by the lawgiver. It is conceived that by the establishment of the feudal system the politically organized people became settled and that the law thereafter took on a territorial as well as a social aspect. To the customary or local law thus established was added the Law Merchant and certain strains of Canon Law as society became more settled in its habits and the economic and social relations broadened. As an evolutionary study of political institutions and of the social conditions out of which the law has risen, this work may be said to be well in line with the investigations which are being carried on by other scholars of today in other departments of investigation. It occupies a place which will contribute to the rounding out of investigations in political and social science.

F. A. C.

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*Des origines et de l'état social de la nation française.* Par H. SOUILIER. Paris: V. Giard et E. Brière, 1898. 8vo. pp. 520.

THIS essay may be called a study in social economy; it consists in an examination of the underlying elements in the social structure of the French state, both from the point of view of their origin and history, and from the point of view of present conditions. The essay

may with equal right be regarded as a contribution to the study of French public law.

In the first part, which is divided into five chapters, and covers something more than one-half of the entire volume, Soulier attempts to give in concise form in their historical settings, the origins and development of the elements of the social constitution.

He does this by examining in his first chapter the social constitution of the three ethnical groups that contributed to form in time the French nation. These groups were the Romans, the Gauls, and "those barbarians who settled in Gaul." Of the three sections of this initial and fundamental chapter, the second section which treats of "the social state of the Gauls," is the most important, because it is here he lays down the broad premises from which he argues that the social constitution of France is essentially Gallic. "We are, therefore," he says near the close of his essay (p. 411) "neither Romans, nor Franks. We are Gauls." In his description of the social state of the Romans he follows well-beaten paths, and Cæsar and Tacitus furnish the background for his picture of the barbarians, but the Gauls themselves are described with a fullness of detail which the sources hardly warrant except as we may ingeniously read backward from a later to an earlier day.

The second chapter describes the effects of invasion and the processes of amalgamation in the unifying of the elements brought to view in the isolated study of the three component groups. Much emphasis is given to the progress toward civilization which the Gauls had made, particularly in social organization, before their conquest by Rome. Under Roman influence Gaul became Gallo-Roman, but the Gallic character and the Gallic social constitution persisted. The causes which led to the decline and decay of agriculture in Italy operated also in Gaul, and the invading barbarians when they came, were welcomed as suitable reinforcements of Gallo-Roman agriculture. The barbarians themselves, so impressed by the grandeur of the empire, so full of admiration for its laws, accepted Gallo-Roman institutions. Their own institutions, which they preserved for a time, fell into disuse by their new habits of settled agriculture.

The third and fourth chapters discuss the development of feudalism and the fifth the rise of the pure monarchy. The sense of the national unity appears with force only with the rise of the monarchy. The wars with England deepen and finally fix the national self-consciousness. The restoration of the monarchy after Napoleon, on the model of the

English constitution, failed because the aristocratic element is wanting in the Gallic social substructure (p. 265). The Roman element was dominant only for a time, and today under the republic a unity of conditions is established in the acceptance of the logical outcome of the original Gallic social state, which was democratic.

A second part, made up of chapters six and seven, is devoted to a discussion of the systems of publicists who have treated of the origins and history of the French social constitution. Some suggestions are added for the rewriting of French history, particularly of that portion which lies between the fifth and the tenth century. This discussion is followed by a final chapter of considerable length, the Conclusion, in which questions of the day are considered. First of all there is a strong pleading for the continuance of the republican form of government as the most complete realization of the spirit of the social institutions of France.

Soulier is not without apprehension of danger from radical tendencies. Socialism he regards as an aspiration (p. 425), and he urges upon his countrymen the importance of systematic labor and settled habits of industry. He speaks of agriculture with the zeal of a physiocrat. He would limit individual fortunes (p. 456); he recommends modifications in the French laws of succession; alterations in the methods of assessing taxes; greater caution in the bestowal of valuable franchises and stricter regulation of all monopolies. He criticises the composition of the French senate, he calls it a creation purely arbitrary. He appreciates the importance of religion, which he believes may flourish without the support of a state church. Finally he describes contemporary foreign relations, and closes with general considerations on the state of Europe and of France.

ISAAC LOOS.